

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 39

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

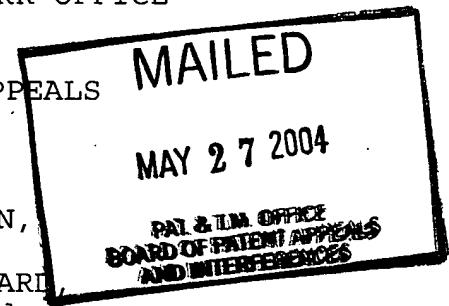
Ex parte DAVID LEE GARRISON,
PATRICIA A. KIGHT,
BRAD PERKINS, CHERYL LYNN WARD,
MARY ELIZABETH LAWSON, and
AMY LYNN KERIN

Application No. 08/994,047

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 30, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On March 31, 2004, An Information Disclosure Statement was filed (Paper No. 38). The Information Disclosure Statement needs to be considered by the primary examiner with respect to compliance with the criteria set forth in 37 CFR 1.97 and 1.98. A



communication notifying appellants of the primary examiner's decision is required.

On August 15, 2003, Appellant filed a Reply Brief (Paper No. 36). A review of the file reveals that the Reply Brief was considered by the examiner with respect to compliance with the criteria set forth in 37 CFR §§ 1.197 and 1.198. A communication notifying appellant of the primary examiner's consideration was on mailed November 5, 2003. However, this communication was not officially entered into the record. Appropriate correction is required. Accordingly, it is

ORDERED that the application is returned to the Examiner for:

- 1) consideration of the Information Disclosure Statement filed March 31, 2004 (Paper No. 38);
- 2) notification in writing, of said consideration;
- 3) entry of the paper mailed November 5, 2003; and
- 4) such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INFERENCES

By:


DALE M. SHAW

Program and Resource Administrator
(703) 308-9797

DMS/dal
RA04-0551

ANTONELLI , TERRY STOUT & KRAUS , LLP
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

The remand filed March 27, 2004 appears to be in error. Upon reviewing the record, the examiner has determined the Information Disclosure Statement (IDS) filed March 31, 2004 does not belong to the instant application (08,994,047). Instead, the Information Disclosure Statement (IDS) filed March 31, 2004, belongs to application serial number 10,043,247 whose docket number is 3350-02A. Application number 10,043,047 is a continuation of the instant application (08,994,047) which has a different attorney docket number (33500-00001). The remand also stated that a communication notifying appellant of the examiner's consideration mailed November 5, 2003 was not entered into the record. It is noted that this communication was indeed entered into the record November 4, 2003 (See Paper number 36 1/2 of file wrapper)

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